

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

In re: Gold King Mine Release in San Juan
County, Colorado on August 5, 2015

No. 1:18-md-02824-WJ

This Document Relates to Allen v. United States, 1:18-cv-744-WJ-KK

**MEMORANDUM OPINION AND ORDER GRANTING DEFENDANTS UNITED
STATES OF AMERICA, WESTON SOLUTIONS, AND ENVIRONMENTAL
RESTORATION'S MOTION TO DISMISS NONRESPONSIVE ALLEN PLAINTIFFS
WITH PREJUDICE**

THIS MATTER comes before the Court on Defendants the United States of America, Weston Solutions, and Environmental Restoration's Motion to Dismiss Nonresponsive *Allen* Plaintiffs with Prejudice, Doc. 1180, filed May 5, 2021.

Movants state that Plaintiffs Mary Clark, Loretta Hatathley, the Estate of Rose Merritt, Vincent Todachene, Della Weston, and Cornelia Weston (the “Nonresponsive Plaintiffs”) have failed to respond to Court-ordered questionnaires and subsequent interrogatories issued by the United States, and have failed to respond to repeated attempts by counsel to fulfill their outstanding discovery obligations. Movants seek to have the claims of the Nonresponsive Plaintiffs dismissed with prejudice pursuant to Fed. R. Civ. P. 41 (b) for failure to prosecute and pursuant to Rule 37(b)(2) for violation of a discovery order.

The Court ordered the Nonresponsive Plaintiffs to respond to the Motion to Dismiss and to show cause why their claims should not be dismissed with prejudice pursuant to Federal Rules of Civil Procedure 41(b) and 37(b)(2)(A)(v). *See* Doc. 1185, filed May 6, 2021 ("Order to Show Cause"). The Court notified the Nonresponsive Plaintiffs that failure to timely respond to the

Motion to Dismiss and the Order to Show Cause will result in dismissal of the Nonresponsive Plaintiffs' claims with prejudice. The Nonresponsive Plaintiffs did not respond by the June 5, 2021, deadline.

IT IS ORDERED that Defendants the United States of America, Weston Solutions, and Environmental Restoration's Motion to Dismiss Nonresponsive *Allen* Plaintiffs with Prejudice, Doc. 1180, filed May 5, 2021, is **GRANTED**. The claims of Plaintiffs Mary Clark, Loretta Hatathley, the Estate of Rose Merritt, Vincent Todachene, Della Weston, and Cornelia Weston are **DISMISSED with prejudice**.



WILLIAM P. JOHNSON
CHIEF UNITED STATES DISTRICT JUDGE